

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAIIIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAIIOCT 06 2005
at 9 o'clock and 31 min. a.
SUE BEITIA, CLERK

PETER H. TAKEDA,

Petitioner,

vs.

FRANK LUNA; et al.,

Respondents.

CIV. NO. 04-00281 JMS-LEK

ORDER CONSTRUING FILING AS
A NOTICE OF APPEAL; AND
GRANTING EXTENSION OF
TIME TO FILE REQUEST FOR
CERTIFICATE OF
APPEALABILITY AND BRIEF IN
SUPPORT**ORDER CONSTRUING FILING AS A NOTICE OF APPEAL;
AND GRANTING EXTENSION OF TIME TO FILE REQUEST FOR
CERTIFICATE OF APPEALABILITY AND BRIEF IN SUPPORT**

Before the court is Petitioner Peter H. Takeda's request for an extension of time to file a certificate of appealability ("COA"), and brief in support. Takeda seeks to appeal the September 8, 2005 Order adopting the Findings and Recommendation to deny his petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. See 28 U.S.C. § 2253(c)(1)(A) (stating that appeal may not be taken in a habeas proceeding "[u]nless a circuit justice or judge issues a certificate of appealability").


Takeda is incarcerated at Tallahatchie County Correctional Facility, located in Tutwiler, Mississippi. Takeda believes he has meritorious, appealable issues in his action and would like to present these issues in support of his request

for a COA. He says that due to the hardships imposed by Hurricanes Katrina and Rita, he is unable to properly research and draft these issues in a timely manner. Takeda seeks a sixty day extension of time within which to file his COA and brief in support.

The court will construe Takeda's request as a Notice of Appeal and a motion for an extension of time to file a request for a COA and a brief in support of that request. For good cause shown, the court GRANTS the motion for a sixty-day extension of time within which to file a COA and brief in support. Takeda is granted up to and including December 5, 2005, to file his request for COA and brief in support.

IT IS SO ORDERED.

Dated: Honolulu, Hawaii, October 5, 2005.


J. MICHAEL SEABRIGHT
UNITED STATES DISTRICT JUDGE

Takeda v. Luna, Civ. No. 04-00281 JMS-LEK; Order Construing Filing as a Notice of Appeal; and Granting Extension of Time to File Request for Certificate of Appealability and Brief in Support; dmp/COAs 05/Takeda 04-281 (grt ext time to brief COA)